



State of California
Commission on Judicial Performance
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November 21, 1994

Honorable Michael A. Kanner
Judge of the Municipal Court
Alhambra Municipal Court District
Los Angeles County
150 West Commonwealth Avenue
Alhambra, CA 91801

Dear Judge Kanner:

The Commission on Judicial Performance has determined that you should be publicly reproved for the following conduct:

"For a period of approximately two years, and ending in 1994, Judge Kanner maintained a policy of issuing no-bail bench warrants for all defendants who failed to appear on misdemeanors, despite the fact that the California Constitution and Penal Code Section 1270 et seq. provide that individuals have a right to bail before conviction with limited exceptions. No-bail warrants were issued by Judge Kanner for approximately one hundred to two hundred individuals. One of these individuals, Robert C. Lewis, was a man who had failed to appear in court on an infraction case in which he was charged with failing to have his dog licensed and vaccinated. (Case No. 93M03821) The man was arrested on the warrant and spent four days in jail in March, 1994.

Judge Kanner has stated that he instituted the no-bail policy because the Sheriff's Department routinely cited and released defendants arrested on warrants of less than \$2,500 or for whom bail of less than \$12,500 was set. In an article which appeared in the Los Angeles Times on March 8, 1994, Judge Kanner was quoted as follows:

But this is just the tip of the iceberg. This situation has created an uneasy pact: Judges understand that the Sheriff's Department has a definite problem, but a judge represents the people who elect him or her. And the people who keep me in office expect that people who violate the law will be punished. And I can't punish anybody who isn't brought before me.

Honorable Michael A. Kanner
November 21, 1994
Page Two

In his statement to the press, Judge Kanner appeared to suggest that his policy of issuing no-bail warrants on misdemeanor matters was justified by the need to bring people before the court so that they could be punished, despite the fact that the policy constituted a denial of the fundamental right to bail and a failure to exercise judicial discretion in handling the cases before him.

After being asked about his policy by the commission by letter dated May 27, 1994, Judge Kanner stated that he now realized that the no-bail policy was wrong, and recognized that it had resulted in failure to exercise judicial discretion in individual cases. Judge Kanner also stated that the policy was not intended to apply to 'license type' offenses, whether misdemeanors or infractions.

The commission found that Judge Kanner's no-bail policy was in disregard of the California Constitution and Penal Code Section 1270 et seq., and that the judge failed to exercise judicial discretion regarding bail in the cases in which these warrants were issued during the approximately two years his policy was in effect. The commission found that Judge Kanner's policy resulted in the denial of a fundamental right to a considerable number of individuals. With respect to the Lewis case, the commission noted that, at a minimum, Judge Kanner had necessarily failed to review the nature of the charges before issuing the no-bail warrant, since the judge would otherwise have discovered that the warrant was for a failure to appear on a license infraction, to which his 'no bail' policy was not to be applied.

The commission found that Judge Kanner's conduct was contrary to Canons 2A of the Code of Judicial Conduct, which provides that a judge 'should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary,' and contrary to Canon 3B(2), which provides that a judge 'should be faithful to the law and maintain professional competence in it,' and that a judge 'should not be swayed by partisan interest, public clamor or fear of criticism.'"

This public reproof is being issued with your consent.

Very truly yours,


Victoria B. Henley
Director-Chief Counsel